

In the United States Bankruptcy Court  
for the  
Southern District of Georgia  
Savannah Division

In the matter of:	)	
	)	Adversary Proceeding
ARTHUR MITCHELL HARDY,	)	
(Chapter 7 Case Number <u>95-42178</u> )	)	Number <u>96-4004</u>
	)	
<i>Debtor</i>	)	
	)	
	)	
ARTHUR MITCHELL HARDY	)	
	)	
<i>Plaintiff</i>	)	
	)	
v.	)	
	)	
DORIS HARDY	)	
	)	
<i>Defendant</i>	)	
	)	

**ORDER ON REMAND**

This Court receives this case on remand from the District Court for the Southern District of Georgia for “further factfinding limited to the issue whether, by the date on which the bankruptcy court relied upon his inconsistent, “alimony/not-alimony” representation . . . Arthur in fact had been ‘merely mistaken’ about the 1994-1995

deduction of his alimony payments on his taxes.” Hardy v. Hardy, CV 496-274, slip op. at 19-20 (S.D.Ga. Oct. 8, 1997) (Edenfield, J.). This Court held a hearing on that limited issue on November 13, 1997, at which time I granted the motion of Claire Watts to withdraw as Plaintiff’s counsel in this adversary.

Debtor/Plaintiff, however, has appealed the October 8, 1997, Order of the District Court to the Eleventh Circuit Court of Appeals. This Court, therefore, finds that it is without jurisdiction, pursuant to 28 U.S.C. § 158(c)(2), to proceed further with the case on remand until such time as the Eleventh Circuit acts on Plaintiff’s appeal.<sup>1</sup> *See Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam) (district court will not consider matters appealed); United States v. Vicaria, 963 F.2d 1412, 1415 (11th Cir.), *cert. denied*, 506 U.S. 998 (1992).

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Lamar W. Davis, Jr.  
United States Bankruptcy Judge

Dated at Savannah, Georgia

This \_\_\_\_ day of January, 1998.

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<sup>1</sup> Defendant Doris Hardy filed a Motion to Dismiss the appeal in the district court, on grounds that the notice of appeal was not timely filed. The district court noted that such a motion is “properly addressed to the Eleventh Circuit because that court is responsible for deciding its own jurisdiction.” Hardy v. Hardy, CV 496-274, slip op. at 3 (S.D.Ga. Dec. 3, 1997) (Edenfield, J.).